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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,

v.

AURORA CUARA,
Defendant.

Case No. 1:18-CR-00104-ADA-BAM
Related Case: 1:22-MC-00124-SAB

STIPULATION RE: UNITED STATES'
WRIT OF CONTINUING GARNISHMENT
AND DEFENDANT'S MOTION FOR
MISCELLANEOUS RELIEF; AND ORDER

DATE: September 26, 2022
TIME: 10 a.m.
COURT: Hon. Ana de Alba

I. INTRODUCTION

Plaintiff United States of America and Defendant Aurora Cuara (the "Parties") by and through their counsel, request that the Court approve this Stipulation that resolves both the United States' pending Writ of Continuing Garnishment (Case No. 1:22-MC-00124-SAB) and Defendant's Motion for Miscellaneous Relief (Case No. 1:18-CR-00104-ADA-BAM, ECF No. 7).

II. RECITATION OF FACTS

Defendant Aurora Cuara ("Ms. Cuara") pled guilty to one count of Theft from an Indian Tribal Organization in violation of 18 U.S.C. § 1163 on May 4, 2021, in accordance with a plea agreement entered on April 14, 2021. ECF Nos. 36 & 33. The Court sentenced Ms. Cuara to six months custody followed by a 36-month term of supervised release, a condition of which included six months home confinement. ECF No. 51. The Court ordered Ms. Cuara to pay a special assessment of \$100,

1 restitution totaling \$311,000, and the following repayment schedule:

2 If incarcerated, payment of any unpaid criminal monetary penalties, in this
3 case is due during imprisonment at the rate of 10% of the defendants gross
4 income per month or \$25.00 per quarter, whichever is greater. Payment
shall be made through the Bureau of Prisons Inmate Financial
Responsibility Program.

5 The defendant shall make payments toward any unpaid criminal monetary
6 penalties in this case during supervision at the rate of at least 10% of your
7 gross monthly income. Payments are to commence no later than 60 days
8 from placement on supervision. This payment schedule does not prohibit
the United States from collecting through all available means any unpaid
criminal monetary penalties at any time, as prescribed by law.

9 On August 25, 2022, the United States filed its application for writ of continuing garnishment
10 seeking to garnish Ms. Cuara's *per capita* distributions from Santa Rosa Rancheria Tachi Yokut
11 ("Garnishee"). The Clerk of Court issued the Writ of Garnishment on August 26, 2022, and the
12 Garnishee filed an answer. Case No. 2:22-MC-00124-SAB, ECF Nos. 2-3 and ECF No. 8. On
13 September 15, 2022, Ms. Cuara filed a motion for miscellaneous relief, seeking enforcement of the
14 judgment and to quash the United States' writ. ECF No. 53.

15 **III. STIPULATION**

16 1. To resolve the Parties dispute regarding payment of restitution, Ms. Cuara agrees to pay
17 \$6,000 to the Clerk of the Court on or before October 31, 2022. The payment will be made out to
18 "Clerk of the Court," include the criminal case number ("Case No. 1:22-CR-104-ADA-BAM"), and sent
19 to the following address:

20 Office of the Clerk
21 501 I Street, Suite 4-200
Sacramento, CA 95814

22 2. Once the \$6,000 has been received by the Clerk of the Court, the United States will
23 consider the debt to be current, and no delinquency or default penalties will be applied. Ms. Cuara
24 understands that the United States may seek to apply penalties pursuant to 18 U.S.C. § 3572(i) should
25 there be a future delinquency or default.

26 3. Effective with the *per capita* owed to Ms. Cuara to be disbursed on or around October 1,
27 2022, and every month following until Ms. Cuara's criminal monetary penalties are paid in full, the
28 Parties agree that Garnishee should withhold 10% of the gross amount of her *per capita* distributions, to

1 be sent to the Clerk of the Court and applied towards Ms. Cuara's outstanding criminal monetary
2 penalties.

3 4. The United States will prepare a proposed final order of continuing garnishment that
4 requires Garnishee to withhold 10% of Ms. Cuara's gross monthly *per capita* distributions and to send
5 the funds to the Clerk of the Court. The United States will file the proposed final order of continuing
6 garnishment within seven working days of the Court's approval of this Stipulation. Ms. Cuara will
7 approve the proposed final order as to form and content prior to filing by the United States.

8 5. The United States agrees to drop its request for a litigation surcharge in connection with
9 the current Writ of Garnishment. Ms. Cuara understands that the United States may request a litigation
10 surcharge in connection with any future involuntary garnishment action.

11 6. Ms. Cuara currently is seeking employment. She will immediately inform her probation
12 officer and the United States Attorney's Office once she becomes employed. In addition to the 10%
13 monthly *per capita* distributions, Ms. Cuara agrees to pay to the Clerk of the Court at least 10% of her
14 gross employment income and to periodically provide her wage statements to her probation officer the
15 United States Attorney's Office upon request. Ms. Cuara may elect to enter into a stipulated
16 garnishment or wage assignment with the United States to have 10% of her gross wages automatically
17 withheld and sent to the Clerk of the Court upon her request.

18 7. If this Stipulation is approved, the Parties request that the hearing scheduled for September
19 26, 2022, be removed from this Court's calendar.

20 8. The Parties shall bear their own attorney's fees and costs associated with the Writ of
21 Garnishment, Ms. Cuara's Motion for Miscellaneous Relief, and this Stipulation.

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23 FOR THE UNITED STATES: Respectfully submitted,
24 PHILLIP A. TALBERT
United States Attorney

25 By: /s/
26 ROBIN TUBESING
Assistant United States Attorney

27 FOR THE DEFENDANT: /s/
28 MARC DAYS
Counsel for Defendant

ORDER

The Court, having reviewed the court files and Parties' Stipulation, and good cause appearing therefrom, hereby APPROVES the Stipulation. Accordingly, it is ORDERED that:

1. Defendant Aurora Cuara shall make a payment of \$6,000 made payable to the Clerk of the Court on or before October 31, 2022.

2. Once the \$6,000 payment is received and processed by the Clerk of Court, the United States shall consider the debt current and not assess any penalties, without prejudice to the United States assessing penalties in the future should there be any subsequent delinquency or default.

3. Within seven working days, the United States shall lodge a proposed final order of continuing garnishment, approved as to form and content by Ms. Cuara's counsel, that directs Garnishee Santa Rosa Rancheria Tachi Yokut to withhold 10% of Ms. Cuara's gross *per capita* distributions and remit them to the Clerk of the Court until the debt is paid in full.

4. The United States' request for a litigation surcharge is withdrawn without prejudice to the United States' requesting a litigation surcharge in any future involuntary garnishment action.

5. Ms. Cuara shall immediately notify her assigned probation officer and the United States Attorneys' Office once she becomes employed. In addition to the 10% *per capita* distributions, Ms. Cuara shall pay to the Clerk of the Court at least 10% of her gross income from employment until the debt is paid in full and shall provide copies of wage statements to her probation officer and the United States upon request. Ms. Cuara may elect at any time to request that the United States prepare a stipulated garnishment or wage assignment to allow the 10% automatically withheld from her wages and sent to the Clerk of the Court.

6. The hearing scheduled for September 26, 2022, is vacated.

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1 7. The Parties shall bear their own attorney's fees and costs associated with the Writ of
2 Garnishment, Ms. Cuara's Motion for Miscellaneous Relief, and this Stipulation.

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5 IT IS SO ORDERED.

6 Dated: September 22, 2022


UNITED STATES DISTRICT JUDGE